



GTE SERVICE CORPORATION

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ORIGINAL

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** Licensed in Florida

November 22, 1999

Ms. Blanca S. Bayo, Director
Division of Records & Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Docket No. 991750-TP
Petition for Approval of First Amendment to Interconnection, Resale and
Unbundling Agreement between GTE Florida Incorporated and Business
Telecom, Inc.

Dear Ms. Bayo:

Please find enclosed for filing an original and five copies of GTE Florida Incorporated's
Petition for Approval of First Amendment to Interconnection, Resale and Unbundling
Agreement with Business Telecom, Inc. The amendment consists of a total of three
pages. Service has been made as indicated on the Certificate of Service. If there are
any questions regarding this matter, please contact me at (813) 483-2617.

Very truly yours,

Kimberly Caswell
KC:tas
Enclosures

A part of GTE Corporation

14400-99

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

ORIGINAL

In re: Petition for Approval of First Amendment)
to Interconnection, Resale and Unbundling)
Agreement between GTE Florida Incorporated)
and Business Telecom, Inc.)
_____)

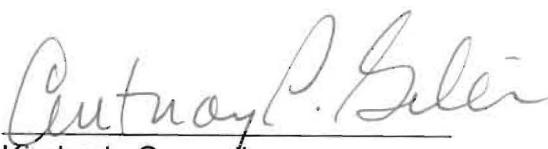
Docket No. 991750
Filed: November 22, 1999

**PETITION OF GTE FLORIDA INCORPORATED FOR APPROVAL OF
FIRST AMENDMENT TO INTERCONNECTION, RESALE AND UNBUNDLING
AGREEMENT WITH BUSINESS TELECOM, INC.**

GTE Florida Incorporated (GTEFL) files this petition before the Florida Public Service Commission seeking approval of the First Amendment to the Interconnection, Resale and Unbundling Agreement which GTEFL has entered with Business Telecom, Inc. (BTI). In support of this petition, GTEFL states:

On February 20, 1998, GTEFL filed a petition for approval of its interconnection, resale and unbundling agreement with BTI, which was approved by the Commission on June 1, 1998 in Docket No. 980266-TP. GTEFL respectfully requests that the Commission approve the attached First Amendment to said agreement and that GTEFL be granted all other relief proper under the circumstances.

Respectfully submitted on November 22, 1999.

By: 
or Kimberly Caswell
P. O. Box 110, FLTC0007
Tampa, Florida 33601-0110
Telephone No. (813) 483-2617

Attorney for GTE Florida Incorporated

DOCUMENT NUMBER-DATE

14400 NOV 22 99

FPSC-RECORDS/REPORTING

**FIRST AMENDMENT TO
INTERCONNECTION, RESALE AND UNBUNDLING AGREEMENT
BETWEEN
GTE FLORIDA INCORPORATED
AND
BUSINESS TELECOM, INC.**

THIS FIRST AMENDMENT to Interconnection, Resale and Unbundling Agreement (the "Agreement") by and between GTE South Incorporated ("AGTE") and Business Telecom, Inc. ("BTI") which was filed with the Florida Public Service Commission ("Commission") on February 20, 1998 (GTE and BTI being referred to collectively as the "Parties" and individually as a "Party"). This First Amendment covers services in the State of Florida ("State").

WHEREAS, the parties desire to amend the expiration date of the Agreement; and

WHEREAS, nothing herein shall be construed as or is intended to be a concession or admission by GTE or BTI that the contractual provision which allows BTI to opt-in to certain rates, terms and conditions ("Terms") from an arbitrated agreement of another CLEC and GTE (Article III, Section 44, the Amendment of Certain Rates, Terms and Conditions Article) or any provision in the Terms complies with the rights and duties imposed by the Telecommunications Act of 1996, the decision of the FCC and the Commissions, the decisions of the courts or other law, and both GTE and BTI expressly reserve their full right to assert and pursue claims arising from or related to the Terms. GTE contends that certain provisions of the Terms may be void or unenforceable as a result of the Supreme Court's decision of January 25, 1999 and the remand of the pricing rules to the United States Eighth Circuit Court of Appeals.

WHEREAS, the Parties now wish to adopt language to effectuate that objective as an amendment to the Agreement;

NOW, THEREFORE, in consideration of the mutual promises, provisions and covenants herein contained, the sufficiency of which is hereby acknowledged, the Parties agree the Parties agree to negotiate a new Agreement for a period of 365 days, from November 21, 1999 to November 21, 2000, during which time the Agreement, as modified by this first amendment, would be in effect. During this negotiation period, the Parties agree to modify the Agreement as follows:

1. The Parties agree to add the following sentence as the last sentence of the Local Traffic definition in Article II, Section 1.48:

"Local Traffic excludes Enhanced Service Provider (ESP) Traffic (e.g., Internet and 900-976) and Internet Protocol-based long distance telephony."

2. The Parties agree to add the following statement below the heading for Article VI and prior to Article VI, section 1:

On January 25, 1999, the Supreme Court of the United States issued its decision on the appeals of the Eighth Circuit's decision in *Iowa Utilities Board*. Specifically, the Supreme Court vacated Rule 51.319 of the FCC's First Report and Order, FCC 96-325, 61 Fed. Reg. 45476 (1996) and modified several of the FCC's and the Eighth Circuit's rulings regarding unbundled network elements and pricing requirements under the Act. *AT&T Corp. v. Iowa Utilities Board*, No. 97-826, 1999 U.S. LEXIS 903 (1999). Under Section 251 (d)(2), the FCC was required to determine what UNEs should be made available, and it listed them in the now-vacated FCC Rule 51.319. Thus, there is currently no determination of what, if any, UNEs should be made available under the law, and until this determination is made there is no legal obligation to provide any particular UNEs. Without waiving any rights and only on an interim basis, GTE agrees to provide the UNEs listed herein ("Old 319 UNEs") in accordance with the associated provisions in the agreement and only upon the following interdependent terms and conditions:

- **Until the FCC issues new and final rules with regard to vacated Rule 51. 319 that comply with the Act ("New Rules"), GTE will provide the Old 319 UNEs listed below even though it is not legally obligated to do so; provided, however, that BTI agrees not to seek UNE "platforms," or "already bundled" combinations of UNEs.**
- **BTI agrees that after the final FCC Rules are issued, the Parties will determine what UNEs should be included in the Agreement as required by the Act, and they will incorporate them into the Agreement. If the Parties cannot agree on what UNEs are then required under the Act, either Party at any time may seek to incorporate the appropriate UNEs under the Act into the agreement in accord with Sections 30 and 38 of Article III, the change of law provision(s) of the Agreement, notwithstanding anything to the contrary or the expiration of any time periods outlined in such provision (s) or any other provision of the Agreement.**
- **By providing Old 319 UNEs, GTE does not waive any of its rights, including its rights to seek recovery of its actual costs and a sufficient, explicit universal service fund. Nor does GTE waive its position that, under the Court's decision, it is not required to provide Old 319 UNEs unconditionally. Moreover, GTE does not agree that the Old 319 UNE rates set forth below are just and reasonable and in accordance with the requirements of sections 251 and 252 of Title 47 of the United States Code.**

The above "status quo" arrangement applies only to UNEs, UNE pricing, unbundling and UNE platform issues. The Parties have not determined if other provisions of the Agreement are

inconsistent with the law. To the extent there are other provisions in the Agreement that are inconsistent with, or impacted by the law, including the Supreme Court's decision in *Iowa Utilities Board*, it is the intent of the Parties that the Agreement should conform thereto and that the "change of law" provisions therein may be invoked to accomplish that end.

3. Except as specifically modified by this First Amendment, the Agreement shall remain as filed with the Commission on the date first filed.
4. If any provision in the Agreement conflicts with this First Amendment, this First Amendment shall control.

IN WITNESS WHEREOF, each Party has executed this First Amendment to be effective as of the date on which this First Amendment is filed with the Commission.

GTE Florida Incorporated

Business Telecom, Inc.

By: Connie Nicholas

By: Anthony M. Copeland

Name: Connie Nicholas

Name: Anthony M. Copeland

Title: Assistant Vice President
Wholesale Markets - Interconnection

Title: Executive Vice President/General Counsel

Date: November 3, 1999

Date: October 22, 1999

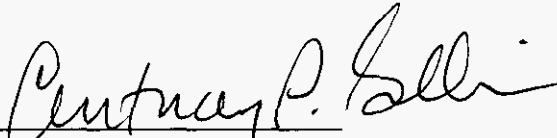
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ATTORNEY	DATE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of GTE Florida Incorporated's Petition for Approval of First Amendment to Interconnection, Resale and Unbundling Agreement with Business Telecom, Inc. were sent via overnight delivery on November 19, 1999, to the parties listed below.

Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

BTI, Inc.
Attention: Anthony M. Copeland
4300 Six Forks Road
Raleigh, NC 27609


Kimberly Caswell